

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
WESTERN DIVISION

DIANNA M. STROH, AS PERSONAL
REPRESENTATIVE OF THE ESTATE OF
JEROME D. STROH; DIANNA M. STROH,

Plaintiff,

vs.

ONE REVERSE MORTGAGE, LLC,

Defendant.

Civil Action No. CV:18-5002-JLV

NOTICE OF REMOVAL

**TO THE CLERK OF THE COURT, PLAINTIFF AND PLAINTIFF'S
ATTORNEYS OF RECORD:**

PLEASE TAKE NOTICE that Defendant One Reverse Mortgage, LLC ("One Reverse Mortgage") hereby removes the civil action, filed January 4, 2018, and captioned DIANNA M. STROH, as personal representative for the Estate of Jerome D. Stroh; DIANNA M. STROH v. ONE REVERSE MORTGAGE, LLC 23 CIV 18-000004, from the Circuit Court for the Seventh Judicial Circuit of the State of South Dakota for the County of Fall River (the "State Court Action") to the United States District Court for the District of South Dakota, Western Division.

One Reverse Mortgage files this notice pursuant to 28 U.S.C. §§ 1441 and 1446(a). The United States District Court has jurisdiction over this case under 28 U.S.C. § 1332. Undersigned counsel verifies that a complete copy of the filings in the in the State Court Action, which this firm obtained from a process server, are attached hereto as Exhibit "A". A copy of such verification is attached hereto as Exhibit "B".

I. FILING AND SERVICE OF THE COMPLAINT.

1. On December 19, 2017, Plaintiff Dianna M. Stroh, as personal representative for the Estate of Jerome D. Stroh, and apparently on her own behalf

(collectively, "Plaintiff") commenced the State Court Action. The Summons and Complaint was filed with the Seventh Judicial Circuit on January 5, 2018.

2. One Reverse Mortgage was served a copy of the Complaint on December 20, 2017. A true and correct copy of the entire State Court Action record, including the Complaint and Summons, is attached hereto as Exhibit "A". To the best of his knowledge, Undersigned counsel verifies that Exhibit "A" contains a complete copy of the filings in the State Court Action. A true and correct copy of such Verification is attached here as Exhibit "B".

3. One Reverse Mortgage has not yet responded to the Complaint. To One Reverse Mortgage's knowledge, no other defendant has been served or named. *See Salveson vs. Western States Bankcard Ass'n*, 731 F.2d 1423, 1429 (9th Cir. 1984) (defendant need not join in or consent to the notice of removal if the non-joining defendant has not been served with process in the state action at the time the notice of removal is filed.).

II. THIS COURT HAS FEDERAL DIVERSITY JURISDICTION.

4. This action is a civil action for which this Court has original jurisdiction pursuant to 28 U.S.C. § 1332 and is one which may be removed pursuant to 28 U.S.C. § 1332 because Plaintiff is diverse from the citizenship of Defendant, and the amount in controversy exceeds the sum or value of \$75,000.

5. Plaintiff is a resident of Hot Springs, Fall River County, South Dakota. (See Compl. ¶ 1.)

6. One Reverse Mortgage is a limited liability company formed in Delaware, with its principal place of business in California. (Compl. ¶ 5)

7. The amount in controversy also exceeds the sum or value of \$75,000.00. The Complaint, on its face, explicitly seeks to void out the underlying mortgage and note, with a face value of \$184,500.00. Plaintiffs may also be seeking to stop the

foreclosure of the underlying property. The fact that Plaintiffs apparently seek to contest the foreclosure of the Property (either directly or indirectly) and/or to undermine the legality of the note at issue (in addition to recovering unspecified damages) proves that the amount in controversy exceeds \$75,000.00. See, e.g., Duma v. JPMorgan Chase, 828 F. Supp. 2d 83, 86 (D.D.C. 2011) *aff'd sub nom. Duma v. JPMorgan Chase & Co.*, 2012 WL 1450548 (D.C. Cir. Apr. 20, 2012) (holding that for purposes of subject matter jurisdiction in an illegal foreclosure action, the amount in controversy exceeded \$75,000.00 because the "outstanding balance on the loan secured by the subject property" exceeded \$75,000.00.).

III. THIS NOTICE OF REMOVAL IS TIMELY AND PROPERLY FILED.

8. The filing of this Notice of Removal is filed within the time period required under 28 U.S.C. § 1446(a).

9. One Reverse Mortgage will give written notice of the filing of this Notice of Removal to all adverse parties as required by 28 U.S.C. § 1446(d) and will file a copy of this Notice of Removal within the State Court Action, as further required by that Section. A true and correct copy of the Notice of Filing of Notice of Removal is being sent to the Adverse Parties and filed with the Circuit Court of the Seventh Judicial Circuit in Fall River County, which is attached as Exhibit "C".

10. Venue is proper in this Court because the action is being removed from the Seventh Judicial Circuit Court for the County of Fall River, State of South Dakota.

11. The undersigned counsel for One Reverse Mortgage has read the foregoing and signs the Notice of Removal pursuant to Rule 11 of the Federal Rules of Civil Procedure, as required by 28 U.S.C. § 1446(a).

WHEREFORE, One Reverse Mortgage prays that the above action now pending against it in the State Court Action be removed to this Court.

Respectfully submitted,



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ATTORNEYS FOR ONE REVERSE
MORTGAGE, LLC

Copy to:

Jim Sword
Brian Ahrendt
P.O. Box 283
Hot Springs, SD 57747

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing
instrument was served upon all parties to the
above cause to each of the attorneys of record
herein at their respective addresses disclosed
on the pleading on 1/17, 2018

By: ☒ U.S. Mail ☐ Facsimile
☐ Hand delivered ☐ Overnight courier
☒ Email ☐ ECF

Signature

